REMARKS

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1, 3-11, and 13-25 are pending in this application. Claims 1, 3, 11, 13, 17, 18, and 22 are amended and claims 2 and 12 have been cancelled. Claim 26 was previously cancelled Claims 1, 11, 13, 17, 18, and 22 are the independent claims.

Rejections Under 35 U.S.C. 103

Claims 1-5, 7, 11-14, 17, 18, 22, and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,574,211 to Padovani et al. ("Padovani") in view of U.S. Patent 7,215,653 to Kim et al. ("Kim"). The Applicant respectfully traverses this rejection for the reasons detailed below.

According to the new Examination Guidelines for Determining Obviousness under 35 U.S.C. § 103 in view of the Supreme Court decision of *KSR International, Co. v. Teleflex, Inc.* it is stated that the proper analysis for a determination of obviousness is whether the claimed invention would have been obvious to one of ordinary skill in the art after consideration of all the facts. The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reasons why the claimed invention would have been obvious. An Office Action must explain why the differences between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. See 72 Fed. Reg. 57526, 57528-529 (Oct. 10, 2007).

The Applicant respectfully asserts that the prior art references when combined or taken separately do not teach or suggest all of the claim limitations, neither has it been explained why the differences between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.

For example, with respect to claim 1, claim 1 recites a method including, among other things, "sending a scheduled grant message according to a scheduled transmission mode protocol" and "establishing a rate limit for subsequent transmissions based on a rate control spending mode protocol." On page 3 of the Office Action, the Examiner concedes that Padovani does not disclose that the grant sent from the base station to the mobile station will establish a rate limit for further transmissions from the mobile station and have a specified rate provided by the grant message. The Office Action cites Kim in an attempt to cure these insufficiencies. The Applicant respectfully asserts that Kim does not cure the insufficiencies of Padovani and does not teach, suggest, or otherwise render obvious the language cited above with respect to claim 1.

FIGS. 4 and 5, the abstract of Kim, and col. 8, lines 4-12 are cited for the purpose of establishing a transmission rate between a base station and a mobile station that includes a rate-control bit message. In contrast to the above-quoted portions of claim 1, Kim states that the data transmission rate adjustment and transmission channel for each MS is determined based on reverse link load and distance between the MS and BS. (See step S54 of FIG. 5.) The abstract of Kim describes that each mobile adjusts its data transmission rate based on a comparison result.

However, amended claim 1 recites establishing a rate limit for subsequent transmissions based on a rate control scheduling mode protocol. A rate control scheduling mode generally controls a mobile station transmission with a rate control directive or instruction. (See, for example, paragraph [0003] of the published specification.) The comparison result recited in Kim is not a rate control scheduling mode as recited in claim 1.

Further, Kim does not teach, suggest, or otherwise render obvious the scheduled transmission mode also recited in claim 1. A scheduled transmission mode generally schedules transmissions by sending an explicit instruction to transmit. (See paragraph [0001] of the patent application publication for the present case.) In contrast, first scheduling protocol described in the Office Action on page 3 of Kim is based on interference levels (see the abstract) and the second scheduling protocol of Kim described in the Office Action on page 3 is based on required transmission energy (see the abstract of Kim) to set transmit rates.

For at least these reasons, the Applicant respectfully asserts that the scheduled transmission mode and the rate control scheduling mode protocols recited in claim 1 are not taught, suggest, or otherwise rendered obvious by the combination of Padovani and Kim. For at least these reasons, the Applicant respectfully requests that independent claim 1 and the claims that depend thereon are patentable over the combination of Padovani and Kim and requests that the rejections of these claims under 35 U.S.C. §103(a) be removed.

The Applicant further notes that claim 11 also recites the scheduled transmission mode and rate control scheduling mode. Claim 13 recites a rate control scheduling mode and scheduled transmission mode. Independent claim 17 recites the scheduled transmission mode and rate control scheduling mode. Independent claim 18 recites a rate control scheduling mode and a scheduled transmission mode. Independent claim 22 recites a rate control scheduling mode. For at least the reasons set forth above with respect to claim 1, the Applicant respectfully asserts that the combination of Padovani and Kim does not teach, suggest, or render obvious the methods recited in independent claims 11, 13, 17, 18, and 22. The Applicant respectfully requests that the rejections under 35 U.S.C. §103(a) of independent claims 11, 13, 17, 18 and 22 and their dependent claims be removed.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Padovani in view of Kim and further in view of Lal et al. ("Distributed Resource Allocation for DS-CDMA based Multi-media Wireless LANs," 21 October 1998, IEEE Proceedings of MILCOM 1998, pg 583-588, herafter Lal). The Applicant respectfully traverses this rejection for the reasons detailed below.

The Applicant respectfully asserts that claim 6 is ultimately dependent upon claim 1 which has been shown to be patentable at least for the reasons set forth above. Therefore, claim 6 is allowable at least by reason of its dependency.

Claims 8-10, 15, 16, 19-21, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Padovani in view of Kim and further in view of Bae et al. (US 2003/0093364; hereafter Bae). The Applicant respectfully traverses this rejection for the reasons detailed below.

Claims 8-10, 15, 16, 19-21, and 24 are ultimately dependent upon at least one of the independent claims set forth above. Therefore, the Applicant respectfully asserts that claims 8-10, 15, 16, 19-21 and 24 are patentable at least by reason of their dependency.

Claim 25 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Padovani in view of Kim and further in view of Yoon et al. (US 2004/0203397; hereafter Yoon). The Applicant respectfully traverses this rejection for the reasons detailed below.

Claim 25 is ultimately dependent upon claim 22 which has been shown to be patentable at least for the reasons set forth above. Therefore, the Applicant respectfully asserts that claim 5 is patentable at least by reason of its dependency and requests that the rejections under 35 U.S.C. §103(a) of claim 25 be removed.

CONCLUSION

In view of the above remarks and amendments, the Applicant respectfully submits that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a two (2) month extension of time for filing a reply to the outstanding Office Action and submit the required $490.00 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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